

Appl. No. : 09/930,591  
Filed : August 15, 2001

### REMARKS

Currently, Claims 1-32 are pending in the application and said claims are subject to restriction as set forth in the Office Action mailed June 3, 2004. Applicant elects to prosecute Claims directed to Group I, with traverse, and submits the amendments *supra*. Currently before the Examiner are Original Claims 7, 10, 11, and 31; Amended Claims 1-6, 8, and 27, and New Claims 33-75. Claims 9, 12-26, 29, 30, and 32 have been canceled without prejudice or disclaimer. Applicants will pursue the subject matter of the canceled claims in a continuation or divisional application. Accordingly, after entry of the present amendment, Claims 1-8, 10, 11, 31, and 33-75 are before the Examiner. Examination on the merits is respectfully requested.

#### *Restriction Requirement*

Applicant thanks the Examiner and the Supervisory Examiner for discussing the subject restriction requirement with Applicant's attorney on June 15, 2004, and the helpful comments provided therein. In accordance with the Supervisory Examiner's suggestions, Applicant elects to prosecute claims directed to the subject matter set forth in the Office Action of June 3, 2004, as Group I, which is drawn to nucleic acids, fragments of nucleic acids, vectors and cells comprising the same, classified as class 536 and subclass 23.72. Applicant makes this election with traverse for the following reasons.

Aspects of Original Claim 8, which were argued by the Examiner to be in Group II, namely the isolated or purified nucleic acid encoding the peptide of sequence SEQ. ID. NO. 2, should properly be rejoined with Group I because the nucleic acid molecule claimed in Claim 1, in fact, encodes the peptide of SEQ. ID. No. 2. (*See* the specification at page 7, lines 1-9 and page 9, lines 20 and 21). Accordingly, the nucleic acid of Claim 1 is encompassed by a claim directed to a nucleic acid encoding the peptide of SEQ. ID. No. 2 (Claim 8, as amended). Applicant respectfully requests that amended Claim 8 be rejoined with Group I.

#### *Amendment*

Applicant has maintained prosecution of Original Claims 7, 10, 11, and 31; has amended Claims 1-6, 8, and 27; canceled Claims 9, 12-26, 29, 30, and 32 and now submits New Claims 33-75. The Examiner has determined that Claims 9, 12-26, 29, 30, and 32 are subject to restriction and, solely in an effort to expedite prosecution, Applicants have cancelled these claims, as they are drawn to non-elected subject matter. The amendments to Claims 1-6, 8, and 27 were made to better clarify the scope of Applicant's invention and support for these amendments can be found at page 13, lines 9-12. New Claims 33-75, which are also directed to the subject matter of Group I, are submitted. Support for these claims can be found, for example, at page 16, lines 16-22, page 45, lines 26-27, page 47, lines 4-6, and page 66, lines 4-7.

In view of the amendments presented herein, Applicant respectfully submits that the claims are now in condition for allowance and such action is earnestly requested. If, however, any unresolved issues remain, Applicant requests that the Examiner contact Applicant's attorney Eric S. Furman Ph.D., J.D. at 619-687-8643 (direct dial) so that such matters can be resolved over the telephone.

**Appl. No.** : 09/930,591  
**Filed** : August 15, 2001

No further fees are seen as being necessary for the filing of this paper, however, if a fee is required, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

*July 2, 2004*

By: \_\_\_\_\_



Eric S. Furman, Ph.D.  
Registration No. 45,664  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550

S:\DOCS\ESF\ESF-7958.DOC  
070204